

House Bill 69

By: Representatives Holmes of the 61<sup>st</sup>, Orrock of the 58<sup>th</sup>, Brooks of the 63<sup>rd</sup>, Thomas of the 55<sup>th</sup>, Bruce of the 64<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia  
2 Annotated, relating to the University System of Georgia, so as to establish the  
3 Multidisciplinary Center for Affordable Housing; to provide for its purposes; to provide for  
4 certain reports; to amend Chapter 6 of Title 48 of the Official Code of Georgia Annotated,  
5 relating to taxation of intangibles, so as to increase the real estate transfer tax and the  
6 intangible recording tax; to provide for the disposition of such increase; to amend Chapter  
7 26 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Housing  
8 and Finance Authority, so as to create the Georgia Housing Trust Fund, Housing  
9 Predevelopment Program, the Low-Income Citizens Emergency Home Repair Program, the  
10 State Apartment Incentive Loan Program, the Georgia Home Ownership Assistance Program,  
11 the Georgia Affordable Housing Guarantee Program, and the State Housing Initiatives  
12 Partnership Program; to provide for funding mechanisms, administration, eligibility,  
13 accountability, and operation of such programs; to provide additional duties, functions, and  
14 responsibilities of the Georgia Housing and Finance Authority; to provide for a contingency;  
15 to provide an effective date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Part 2 of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,  
19 relating to the University System of Georgia, is amended by adding a new Code Section  
20 20-3-87 to read as follows:

21 "20-3-87.

22 (a) The board of regents shall establish the Multidisciplinary Center for Affordable  
23 Housing within the College of Architecture at the Georgia Institute of Technology. The  
24 center shall work in conjunction with other colleges in the University System of Georgia.

25 (b) The Multidisciplinary Center for Affordable Housing shall:

(1) Conduct research relating to the problems and solutions associated with the availability of affordable housing in the state for families who are below the median income level and widely disseminate the results of such research to appropriate public and private audiences within the state. Such research shall emphasize methods to improve the planning, design, and production of affordable housing, including, but not limited to, the financial, maintenance, management, and regulatory aspects of residential development;

(2) Provide public services to local, regional, and state agencies, units of government, and authorities by helping them create regulatory climates that are amenable to the introduction of affordable housing within their jurisdictions;

(3) Conduct special research relating to fire safety;

(4) Provide a focus for the teaching of new technology and skills relating to affordable housing in the state;

(5) Develop a base of informational and financial support from the private sector for the activities of the center;

(6) Develop prototypes for both multifamily and single-family housing units;

(7) Establish a research agenda and general work plan in cooperation with the Department of Community Affairs for research and planning for affordable housing and for training and technical assistance for providers of affordable housing; and

(8) Submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year which shall include information relating to the activities of the center, including collaborative efforts with public and private entities, affordable housing models, and any other findings and recommendations related to the production of safe, decent, and affordable housing.

(c) The director of the Multidisciplinary Center for Affordable Housing shall be appointed by the dean of the College of Architecture at the Georgia Institute of Technology."

## SECTION 2.

Chapter 6 of Title 48 of the Official Code of Georgia Annotated, relating to taxation of intangibles, is amended by striking Code Section 48-6-1, relating to real estate transfer tax rates, and inserting in lieu thereof a new Code Section 48-6-1 to read as follows:

"48-6-1.

(a) There is imposed a tax at the rate of \$1.00 for the first \$1,000.00 or fractional part of \$1,000.00 and at the rate of 10¢ for each additional \$100.00 or fractional part of \$100.00 on each deed, instrument, or other writing by which any lands, tenements, or other realty sold is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons by his or her or their direction, when the

1 consideration or value of the interest or property conveyed (exclusive of the value of any  
2 lien or encumbrance existing prior to the sale and not removed by the sale) exceeds  
3 \$100.00.

4 (b) In addition to the amount specified in subsection (a) of this Code section, there is  
5 imposed an additional tax at the rate of 20¢ for the first \$1,000.00 or fractional part of  
6 \$1,000.00 and at the rate of 2¢ for each additional \$100.00 or fractional part of \$100.00 on  
7 each deed, instrument, or other writing by which any lands, tenements, or other realty sold  
8 is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or  
9 purchasers, or any other person or persons by his or her or their direction, when the  
10 consideration or value of the interest or property conveyed (exclusive of the value of any  
11 lien or encumbrance existing prior to the sale and not removed by the sale) exceeds  
12 \$100.00."

### 13 SECTION 3.

14 Said chapter is further amended by striking Code Section 48-6-8, relating to the distribution  
15 of tax revenues among state and other tax jurisdictions and districts, and inserting in lieu  
16 thereof a new Code Section 48-6-8 to read as follows:

17 "48-6-8.

18 (a) At least once every 30 days, all revenues derived from the tax imposed by this article  
19 subsection (a) of Code Section 48-6-1 shall be distributed among the state and  
20 municipalities in which the real property is situated and the county in which the real  
21 property is situated in the same proportion that revenues derived from the taxes imposed  
22 by Article 3 of this chapter are divided. If the real property is situated in more than one  
23 county, the appropriate portion of the tax shall be equitably divided among the counties by  
24 the clerk of the superior court.

25 (b) At least once every 30 days, all revenues derived from the tax imposed by  
26 subsection (b) of Code Section 48-6-1 shall be transmitted to commissioner who shall  
27 deposit such revenues into the Georgia Housing Trust Fund created by Code Section  
28 50-26-42."

### 29 SECTION 4.

30 Said chapter is further amended by striking Code Section 48-6-61, relating to the intangible  
31 recording tax, and inserting in lieu thereof a new Code Section 48-6-61 to read as follows:

32 "48-6-61.

33 (a) Every holder of a long-term note secured by real estate shall, within 90 days from the  
34 date of the instrument executed to secure the note, record the security instrument in the  
35 county in which is located the real estate conveyed or encumbered or upon which a lien is

1 created to secure the note and shall present, prior to presenting the instrument to the clerk  
2 of superior court for recording, the security instrument to the collecting officer of the  
3 county in which the real estate is located. The collecting officer shall determine from the  
4 face of the security instrument the date of execution of the instrument, the maturity date of  
5 the note, and the principal amount of the note. There is imposed on each instrument an  
6 intangible recording tax at the rate of \$1.50 for each \$500.00 or fraction thereof of the face  
7 amount of the note secured by the recording of the security instrument. The collecting  
8 officer shall collect the tax due on the security instrument from the holder of the  
9 instrument; provided, however, that the holder may pass on the amount of such tax to the  
10 borrower or mortgagor but the amount of such tax passed to the borrower or mortgagor  
11 shall not be considered or treated as part of any finance charge imposed by the holder in  
12 connection with the loan transaction. If the security instrument reflects an amount greater  
13 than the principal amount of the note and, at the time the security instrument is presented  
14 for recording, the holder of the note also presents for recording with the security instrument  
15 said holder's sworn statement itemizing the principal amount of the note and the other  
16 charges included within the amount shown on the face of the security instrument, the  
17 collecting officer shall determine the principal amount of the note from the sworn  
18 statement. The maximum amount of any intangible recording tax payable as provided in  
19 this ~~Code section~~ subsection with respect to any single note shall be \$25,000.00.

20 (b) In addition to the amount imposed in subsection (a) of this Code section, there is  
21 imposed on each instrument an additional intangible recording tax at the rate of 20¢ for  
22 each \$1,000.00 or fraction thereof of the face amount of the note secured by the recording  
23 of the security instrument. The collecting officer shall collect the tax due on the security  
24 instrument from the holder of the instrument; provided, however, that the holder may pass  
25 on the amount of such tax to the borrower or mortgagor but the amount of such tax passed  
26 to the borrower or mortgagor shall not be considered or treated as part of any finance  
27 charge imposed by the holder in connection with the loan transaction. If the security  
28 instrument reflects an amount greater than the principal amount of the note and, at the time  
29 the security instrument is presented for recording, the holder of the note also presents for  
30 recording with the security instrument said holder's sworn statement itemizing the principal  
31 amount of the note and the other charges included within the amount shown on the face of  
32 the security instrument, the collecting officer shall determine the principal amount of the  
33 note from the sworn statement."

**SECTION 5.**

Said chapter is further amended by striking Code Section 48-6-72, relating to collection and distribution of revenues, and inserting in lieu thereof a new Code Section 48-6-72 to read as follows:

"48-6-72.

(a) The intangible recording tax imposed by Code Section 48-6-61 upon instruments securing long-term notes secured by real property shall be collected by the collecting officer of each county and said officer shall make the distributions in the manner provided for in this Code section.

(b) The governing authority of each county shall take into consideration any increase or decrease in the duties and responsibilities of the offices of the tax commissioner and the clerk of the superior court required by this article in establishing the annual budget for each such office and, where applicable, the affected officers shall cooperate fully in any transferring of responsibilities required under this Code section.

(c) The collecting officer, on the basis of the tax commissioner's or tax collector's records and of certificates which shall be supplied by each school district, municipality, and other tax district in the county, shall distribute at least monthly the revenue collected under ~~this article~~ subsection (a) of Code Section 48-6-61. Each year the millage rates used in the distributions of revenue under this Code section shall be based upon the immediately preceding year's millage rate of each participating tax authority as provided in this article.

(d) Revenue derived from taxes under ~~this article~~ subsection (a) of Code Section 48-6-61 shall be divided among the state and all other tax jurisdictions and districts including, but not limited to, county and municipal districts, which levy or cause to be levied for their benefit a property tax on real and tangible personal property having the same taxable situs as the real property which is the subject of the intangible tax. The distribution shall be made according to the proportion that the millage rate levied for the state and each other tax jurisdiction or district respectively bears to the total millage rate levied for all purposes applicable to real and tangible personal property having the same taxable situs as the subject of the intangible tax. The revenue distributed to municipalities having independent school systems supported by taxes levied by the municipality shall be divided between the municipality and the independent school system according to the proportion that the millage rate levied by the municipality for nonschool purposes and the millage rate levied for school purposes bear to the total millage rate levied by the municipality for all purposes. The tax levied by ~~this article~~ subsection (a) of Code Section 48-6-61 shall be deemed to be levied by the participating tax authorities in the proportion that the millage rate of each participating tax authority bears to the aggregate millage rate of all the participating tax authorities.

(e) In the event any distribution or part of a distribution as provided in this article is adjudged to be invalid for any reason, such distribution or part of a distribution shall be paid into the general fund of the state in the same manner and for the same purposes as provided in this article for the state's share of the revenues derived from the tax imposed by ~~this article~~ subsection (a) of Code Section 48-6-61.

(f) The revenues derived from the tax imposed by subsection (b) of Code Section 48-6-61 shall be transferred to the commissioner for deposit in the Georgia Housing Trust Fund created by Code Section 50-26-42."

#### SECTION 6.

Said chapter is further amended by striking Code Section 48-6-74, relating to distribution of revenues from intangible recording tax, and inserting in lieu thereof a new Code Section 48-6-74 to read as follows:

"48-6-74.

All revenues derived from the intangible recording tax imposed by ~~this article~~ subsection (a) of Code Section 48-6-61 including, but not limited to, revenues from any imposition of the tax upon intangible trust property shall be distributed among the state, county, and municipality in which the real property is located in the same proportion that revenues derived from the intangible taxes imposed by Article 3 of this chapter are distributed. If the real property is located in more than one county, the appropriate portion of the intangible recording tax shall be distributed equitably by the commissioner among the affected counties."

#### SECTION 7.

Chapter 26 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Housing and Finance Authority, is amended by designating the existing material within the chapter as Article 1 and inserting a new Article 2 to read as follows:

#### "ARTICLE 2

50-26-40.

This article is enacted pursuant to Article III, Section IX, Paragraph VI(n) of the Constitution, which provision authorizes increases in the state real estate transfer tax and the state intangible recording tax and provides that the proceeds derived therefrom may be used for the purpose of assisting low-income citizens and moderate-income citizens of this state in obtaining and maintaining affordable housing.

1 50-26-41.

2 As used in this article, the term:

3 (1) 'Authority' means the Georgia Housing and Finance Authority created in Code  
4 Section 50-26-5.

5 (2) 'Trust fund' means the Georgia Housing Trust Fund created by Code Section  
6 50-26-42.

7 50-26-42.

8 (a) There is created the Georgia Housing Trust Fund as a separate fund in the state  
9 treasury. The director of the Office of Treasury and Fiscal Services shall credit to the trust  
10 fund all amounts transferred to such fund and shall invest the trust fund moneys in the same  
11 manner as authorized for investing other moneys in the state treasury. In addition, all loan  
12 repayments, penalties, and other fees and charges accruing to the trust fund shall also be  
13 credited to the trust fund. It is the intent of the General Assembly that all loan repayments,  
14 penalties, and other fees and charges collected be credited in full to the program account  
15 from which the loan originated.

16 (b) The authority may authorize the disbursement of available money from the trust fund  
17 for the purposes of assisting low-income citizens and moderate-income citizens of this state  
18 in obtaining and maintaining affordable housing. The authority may also authorize the  
19 disbursement of trust fund moneys for the actual and necessary operating expenses that the  
20 authority incurs in performing its duties in connection with the trust fund; provided,  
21 however, that such disbursements shall be kept at a minimum in furtherance of the primary  
22 purpose of the trust fund, which is to assist low-income citizens and moderate-income  
23 citizens of this state in obtaining and maintaining affordable housing.

24 (c) The authority shall prepare an annual report to the Governor and members of the  
25 General Assembly not later than December 31 of each year outlining the financial status  
26 of the trust fund and making any recommendations on how the trust fund can better achieve  
27 its mission of providing affordable housing in the state.

28 (d) The authority shall allocate 30 percent of the funds in the trust fund to the Housing  
29 Predevelopment Program, the Low-Income Citizens Emergency Home Repair Program,  
30 the State Apartment Incentive Loan Program, the Georgia Home Ownership Assistance  
31 Program, and the Georgia Affordable Housing Guarantee Program. The authority shall  
32 allocate the remaining funds to the State Housing Initiatives Partnership Program.  
33 Notwithstanding anything in this Code section to the contrary, the authority may establish  
34 reserve and similar accounts to ensure efficient and continued operation of the authority  
35 and its programs.

1 50-26-43.

2 (a) There is created the Housing Predevelopment Program which shall be administered by  
3 the authority using funds from the trust fund.

4 (b) As used in this Code section, the term:

5 (1) 'Community based organization' or 'not for profit organization' means any group that  
6 provides housing and other services on a not for profit basis, and which is acceptable to  
7 federal and state agencies and financial institutions as a sponsor of affordable housing.

8 (2) 'Eligible housing project' means a housing project proposed by an eligible sponsor  
9 which will ensure that a minimum of 20 percent of the completed housing units are rented  
10 or sold to very low-income persons or that a minimum of 50 percent of the completed  
11 housing units are rented or sold to low-income persons.

12 (3) 'Low-income persons' means one or more natural persons or a family, not including  
13 students, whose total annual household income does not exceed 80 percent of the median  
14 annual adjusted gross income for households within the state, or 80 percent of the median  
15 annual adjusted gross income for households within the metropolitan statistical area in  
16 which the person or family resides or, if not within a metropolitan statistical area, within  
17 the county in which the person or family resides, whichever is greater.

18 (4) 'Program' mean the Housing Predevelopment Program created by this Code section.

19 (5) 'Sponsor' means a unit of local government, a housing authority, a community based  
20 or not for profit organization, or a limited partnership if its general partner is a  
21 community based or not for profit organization that applies for and is awarded  
22 predevelopment expenses from the program.

23 (6) 'Student' means any person not living with that person's parent or guardian who is  
24 eligible to be claimed by that person's parent or guardian as a dependent under the federal  
25 income tax code and who is enrolled on at least a half-time basis in a secondary school,  
26 career center, community college, college, or university. The term does not include a  
27 person participating in an educational or training program approved by the authority.

28 (7) 'Target population' means very low-income persons and families and low-income  
29 persons and families.

30 (8) 'Very low-income persons' means one or more natural persons or a family, not  
31 including students, whose total annual household income does not exceed 50 percent of  
32 the median annual adjusted gross income for households within the state, or 50 percent  
33 of the median annual adjusted gross income for households within the metropolitan  
34 statistical area in which the person or family resides or, if not residing within a  
35 metropolitan statistical area, within the county in which the person or family resides,  
36 whichever is greater. The term also means, in projects for which the sponsor intends to  
37 use the federal low-income housing tax credit, persons or households having incomes that



1 meet the eligibility requirements of Section 42 of the federal Internal Revenue Code of  
2 1986.

3 (c)(1) The authority is authorized to make loans and grants from the program to eligible  
4 sponsors when it determines that:

5 (A) A need for housing for the target population exists in the area described in the  
6 application; and

7 (B) Federal, state, or local public funds or private funds are available or likely to be  
8 available to aid in the site acquisition, site development, construction, rehabilitation,  
9 maintenance, or support of the housing proposed in the application.

10 (2) If a loan is made, the authority is authorized to forgive such loan and thereby make  
11 a grant to a sponsor for any moneys which are unable to be repaid due to the sponsor's  
12 inability to obtain construction or permanent financing for the development. The  
13 authority shall not forgive the portion of the loan, if any, which is secured by a mortgage  
14 to the extent such loan could be repaid from the sale of the mortgaged property.

15 (3) The authority shall promulgate rules and regulations for the equitable distribution of  
16 the funds in a manner that meets the need and demand for housing for the target  
17 population. Funds shall be made available under the program on a first-come, first-served  
18 basis, unless otherwise established by rule or regulation of the authority.

19 (4) The activities of sponsors which are eligible for housing predevelopment loans and  
20 grants shall include, but not be limited to:

21 (A) Site acquisition;

22 (B) Site development;

23 (C) Fees for requisite services from architects, engineers, surveyors, attorneys, and  
24 other professionals;

25 (D) Marketing expenses relating to advertisement;

26 (E) Administrative expenses;

27 (F) Market and feasibility studies; and

28 (G) Consulting fees.

29 (5) Terms and conditions of housing predevelopment program loan agreements shall be  
30 established by rule and regulation and shall include:

31 (A) Provision for interest, which shall be set at between 0 and 3 percent per year, as  
32 established by the authority;

33 (B) Provision of a schedule for the repayment of principal and interest for a term not  
34 to exceed 3 years or initiation of permanent financing, whichever event occurs first.  
35 However, the authority may extend the term of a loan for an additional period if  
36 extraordinary circumstances exist and if such extension would not jeopardize the  
37 authority's security interest;

(C) Provision of reasonable security for the housing predevelopment loan to ensure the repayment of the principal and any interest accrued within the term specified;

(D) Provisions to ensure that the land acquired will be used for the development of housing and related services for the target population;

(E) Provisions to ensure, to the extent possible, that any accrued savings in cost due to the availability of these funds will be passed on to the target population in the form of lower land prices. The authority shall ensure that such savings in land prices shall be passed on in the form of lower prices or rents for dwellings constructed on such land; and

(F) Provisions to ensure that any land acquired for housing for the target population shall not be disposed of or alienated in a manner that violates Title VII of the federal 1968 Civil Rights Act, which specifically prohibits discrimination based on race, sex, color, religion, or national origin or that violates other applicable federal or state laws.

(6) No predevelopment loan made under this Code section shall exceed the lesser of:

(A) The development and acquisition costs for the project, as determined by rule and regulation of the authority; or

(B) Five hundred thousand dollars.

(7) Any real property or any portion thereof purchased or developed under this Code section may be disposed of by the eligible sponsor upon the terms and conditions established by rules and regulations of the authority at a price not to exceed the actual prorated land costs, development costs, accrued taxes, and interest.

(d) Applications shall be submitted to the authority in a form that it shall establish by rule or regulation. The authority shall establish the criteria for determining threshold compliance with authority objectives. Final decisions regarding funding shall be approved by the authority. The authority shall determine the tentative loan or grant amount available to each program participant. The actual loan or grant amount shall be determined pursuant to rule specifying credit underwriting procedures. The criteria to be used to determine threshold compliance shall include, but are not limited to, the following:

(1) Income target objectives of the authority;

(2) Sponsor's agreement to reserve more than the minimum number of units for low-income persons and very low-income persons;

(3) Projects requiring the least amount of predevelopment funds compared to total predevelopment costs;

(4) Sponsor's prior experience;

(5) Commitments of other financing;

(6) Sponsor's ability to proceed; and

(7) Project's consistency with the local government comprehensive plan.

(e)(1) The authority may adopt rules and regulations necessary to implement this Code section and to further specify the purposes for which loan and grant funds may be expended, the required content of applications, the procedure for evaluating and competitively ranking all applications, and reporting requirements for sponsors awarded funds.

(2) The authority shall submit, within the annual report required by Code Section 50-26-42, a summary of loans and grants made, loan and grant recipients, loan commitments received by sponsors, persons or families housed, projects initiated and completed, and the balance on all loans outstanding at the end of each fiscal year.

(f) If a default on a loan occurs, the authority may foreclose on any mortgage or security interest or commence any legal action to protect the interest of the authority or the trust fund and recover the amount of the unpaid principal, accrued interest, and fees on behalf of the fund. The authority may also acquire real and personal property or any interest in the property if such acquisition is necessary or appropriate to protect any loan; sell, transfer, and convey any such property to a buyer; and, if such sale, transfer, or conveyance cannot be effected within a reasonable time, lease such property for occupancy by eligible persons. All sums recovered from the sale, transfer, conveyance, or lease of such property shall be deposited into the trust fund.

50-26-44.

(a) There is established the Low-Income Citizens Emergency Home Repair Program to assist low-income persons, especially the elderly and physically disabled, in making emergency repairs which directly affect their health and safety. This program shall be administered by the authority.

(b) As used in this Code section, the term:

(1) 'Grantee' means a local public or private nonprofit agency that receives funds from the authority to conduct a weatherization assistance program in one or more counties or a public or nonprofit agency chosen as outlined in this Code section.

(2) 'Program' means the Low-Income Citizens Emergency Home Repair Program created by this Code section.

(3) 'Subgrantee' means a local public or private nonprofit agency experienced in weatherization, emergency repairs, or rehabilitation of housing.

(c) A person is eligible to receive assistance under this Code section if that person has an income in relation to that person's family size which is at or below 125 percent of the poverty level as specified annually in the federal Office of Management and Budget Poverty Guidelines. Eligible persons over 60 years of age and eligible persons who are physically disabled shall be given priority in the program.

(d)(1) Allowable repairs, including materials and labor, which may be charged under the program include:

(A) Correcting deficiencies in support beams, load-bearing walls, and floor joists;

(B) Repair or replacement of unsafe or nonfunctional space-heating or water-heating systems;

(C) Egress or physically disabled accessibility repairs, improvements, or assistive devices, including wheelchair ramps, steps, porches, handrails, or other health and safety measures;

(D) Plumbing, pump, well, and line repairs to ensure safe drinking water and sanitary sewage;

(E) Electrical repairs;

(F) Repairs to deteriorating walls, floors, and roofs; and

(G) Other interior and exterior repairs as necessary for the health and safety of the resident.

(2) Administrative expenses may not exceed 10 percent of the total grant funds.

(e) Each grantee shall be required to provide an in-kind or cash match of at least 20 percent of the funds granted. Grantees and subgrantees shall be encouraged to use community resources to provide such match, including family, church, and neighborhood volunteers and materials provided by local groups and businesses.

(f) Funds shall be distributed to grantees and subgrantees as follows:

(1) For each county, a base amount of at least \$3,000.00 shall be set aside from the total funds available;

(2) The balance of the funds shall be divided by the total poverty population of the state, and this quotient shall be multiplied by each county's share of the poverty population. That amount plus the base of at least \$3,000.00 shall constitute each county's share. A grantee which serves more than one county shall receive the base amount plus the poverty population share for each county to be served. Contracts with grantees may be renewed annually.

(g) The funds allocated to each county shall be offered first to an existing weatherization assistance program grantee in good standing, as determined by the authority, that can provide services to low-income persons, low-income elderly persons, and low-income physically disabled persons throughout the county.

(h) If a weatherization assistance program grantee is not available to serve the entire county, the funds shall be distributed through the following process:

(1) An announcement of funding availability shall be provided to the county. The county may elect to administer the program; and

(2) If the county elects not to administer the program, the authority shall establish rules to address the selection of one or more public or private not for profit agencies that are experienced in weatherization, rehabilitation, or emergency repair to administer the program.

(i) If no eligible agency agrees to serve a county, the funds for that county shall be distributed to grantees having the best performance record as determined by rule or regulation of the authority. At the end of the contract year, any uncontracted or unexpended funds shall be returned to the trust fund for reallocation in the next year.

(j) The authority may perform all actions appropriate and necessary to carry out the purposes of this Code section, including, but not limited to:

(1) Entering into contracts and agreements with the federal government, agencies of the state, local governments, or any person, association, corporation, or entity;

(2) Seeking and accepting funding from any public or private source; and

(3) Adopting and enforcing rules and regulations consistent with this Code section.

(k) The authority shall have all powers necessary or convenient to carry out and effectuate the purposes of this Code section, including the power to provide for the collection and payment of fees and charges, regardless of method of payment, including, but not limited to, reimbursement of costs of financing by the authority, credit underwriting fees, servicing charges, and insurance premiums determined by the authority to be reasonable and as approved by the authority. The fees and charges may be paid directly by the borrower to the insurer, lender, or servicing agent or may be deducted from the payments collected by such insurer, lender, or servicing agent.

50-26-45.

(a) There is created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for profit, nonprofit, and public entities, to provide housing affordable to very low-income persons.

(b) As used in this Code section, the term:

(1) 'Community based organization' or 'not for profit organization' means any group that provides housing and other services on a not for profit basis, and which is acceptable to federal and state agencies and financial institutions as a sponsor of affordable housing.

(2) 'Eligible housing project' means a housing project proposed by an eligible sponsor which will ensure that a minimum of 20 percent of the completed housing units are rented to very low-income persons.

(3) 'Program' means the State Apartment Incentive Loan Program created by this Code section.

1 (4) 'Sponsor' means a unit of local government, a housing authority, a community based  
2 or not for profit organization, or a limited partnership if its general partner is a  
3 community based or not for profit organization.

4 (5) 'Student' means any person not living with that person's parent or guardian who is  
5 eligible to be claimed by that person's parent or guardian as a dependent under the federal  
6 income tax code and who is enrolled on at least a half-time basis in a secondary school,  
7 career center, community college, college, or university. The term does not include a  
8 person participating in an educational or training program approved by the authority.

9 (6) 'Target population' means very low-income persons and families.

10 (7) 'Very low-income persons' means one or more natural persons or a family, not  
11 including students, whose total annual household income does not exceed 50 percent of  
12 the median annual adjusted gross income for households within the state, or 50 percent  
13 of the median annual adjusted gross income for households within the metropolitan  
14 statistical area in which the person or family resides or, if not residing within a  
15 metropolitan statistical area, within the county in which the person or family resides,  
16 whichever is greater. The term also means, in projects for which the sponsor intends to  
17 use the federal low-income housing tax credit, persons or households having incomes that  
18 meet the eligibility requirements of Section 42 of the federal Internal Revenue Code of  
19 1986.

20 (c) Program funds shall be distributed over successive three-year periods in a manner that  
21 meets the need and demand for housing for the target population throughout the state. That  
22 need and demand must be determined by using the most recent state-wide low-income  
23 rental housing market studies available at the beginning of each three-year period.  
24 However, at least 10 percent of the program funds distributed during a three-year period  
25 must be allocated to each of the following categories of counties, as determined by using  
26 the population statistics published by the United States Bureau of the Census:

27 (1) Counties that have a population of more than 500,000 people;

28 (2) Counties that have a population between 100,000 and 500,000 people; and

29 (3) Counties that have a population of 100,000 people or fewer.

30 Any increase in funding required to reach the 10 percent minimum shall be taken from the  
31 county category that has the largest allocation. The authority shall adopt rules and  
32 regulations that establish an equitable process for distributing any portion of the 10 percent  
33 of program funds allocated to the county categories specified in this Code section which  
34 remain unallocated at the end of a three-year period. Counties that have a population of  
35 100,000 people or fewer shall be given preference under these rules and regulations.

36 (d) The authority shall have the power to underwrite and make state apartment incentive  
37 loans or loan guarantees to sponsors, provided that:

1 (1) The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent  
2 of the units in the project are set aside for persons or families who have incomes which  
3 meet the income eligibility requirements of Section 8 of the United States Housing Act  
4 of 1937, as amended;

5 (2) The sponsor uses taxable financing for the first mortgage and at least 20 percent of  
6 the units in the project are set aside for persons or families who have incomes below 50  
7 percent of the state or local median income, whichever is higher, which shall be adjusted  
8 by the authority for family size;

9 (3) The sponsor uses the federal low-income housing tax credit, and the project meets  
10 the tenant income eligibility requirements of Section 42 of the federal Internal Revenue  
11 Code of 1986, as amended; or

12 (4) The project is located in a county that includes, or has included within the previous  
13 five years, an area of critical state concern designated or ratified by the authority for  
14 which the authority has declared its intent to provide affordable housing, and 100 percent  
15 of the units in the project are set aside for persons or families who have incomes below  
16 120 percent of the state or local median income, whichever is higher, which shall be  
17 adjusted by the authority for family size.

18 This subsection shall not prohibit a tenant from qualifying under the income eligibility  
19 criteria of paragraphs (1) through (4) of this subsection due to the tenant's participation in  
20 a job training program approved by the authority. Compliance with the provisions of this  
21 subsection must be contractually provided for the term of the loan or 12 years, whichever  
22 is longer; however, this subsection does not apply to loans made to housing communities  
23 for the elderly to provide for life safety, building preservation, health, sanitation, or security  
24 related repairs or improvements. Such loans shall be subject to tenant income criteria  
25 established by rule or regulation of the authority.

26 (e) During the first six months of loan or loan guarantee availability, program funds shall  
27 be reserved for use by sponsors who provide the housing set-aside required in  
28 subsection (d) of this Code section for the tenant groups designated in this subsection. The  
29 reservation of funds to each of these groups shall be determined using the most recent  
30 state-wide very low-income rental housing market study available at the time of publication  
31 of each notice of fund availability required by paragraph (2) of subsection (h) of this Code  
32 section. The reservation of funds within each notice of fund availability to the tenant  
33 groups in paragraphs (1), (2), and (4) of this subsection may not be less than 10 percent of  
34 the funds available at that time. Any increase in funding required to reach the 10 percent  
35 minimum shall be taken from the tenant group that has the largest reservation. The  
36 reservation of funds within each notice of fund availability to the tenant group in paragraph

(3) of this subsection may not be less than 5 percent of the funds available at that time. The tenant groups are:

- (1) Commercial fishing workers and farm workers;
- (2) Families;
- (3) Persons who are homeless; and
- (4) Elderly persons.

Ten percent of the amount reserved for the elderly shall be reserved to provide loans to sponsors of housing for the elderly for the purpose of making building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or life safety or security related repairs or improvements to such housing. Such a loan may not exceed \$200,000.00 per housing community for the elderly. In order to receive the loan, the sponsor of the housing community must make a commitment to match at least 15 percent of the loan amount to pay the cost of such repair or improvement. The authority shall establish the rate of interest on the loan, which may not exceed 3 percent, and the term of the loan, which may not exceed 15 years. The term of the loan shall be established on the basis of a credit analysis of the applicant. The authority shall establish, by rule and regulation, the procedure and criteria for receiving, evaluating, and competitively ranking all applications for loans under this Code section. A loan application must include evidence of the first mortgagee's having reviewed and approved the sponsor's intent to apply for a loan. A nonprofit organization or sponsor may not use the proceeds of the loan to pay for administrative costs, routine maintenance, or new construction.

(f) Loans shall be in an amount not to exceed the lesser of 25 percent of the total project cost or the minimum amount required to make the project economically feasible.

(g) The amount of the mortgage provided under this program combined with any other mortgage in a superior position shall be less than the value of the project without the housing set-aside required by subsection (d) of this Code section. However, the authority may waive this requirement for projects in rural areas or urban infill areas which have market rate rents that are less than the allowable rents pursuant to applicable state and federal guidelines. In no event shall the mortgage provided under this program combined with any other mortgage in a superior position exceed total project cost.

(h) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for life safety, building preservation, health, sanitation, or security related repairs or improvements, the following provisions shall apply:

- (1) The authority shall establish reasonable interest rates;
- (2) The authority shall publish a notice of fund availability in a publication of general circulation throughout the state. Such notice shall be published at least 60 days prior to



1 the application deadline and shall provide notice of the temporary reservations of funds  
2 established in subsection (e) of this Code section;

3 (3) The authority shall provide by rule or regulation for the establishment of a review  
4 committee composed of the authority staff and shall establish by rule or regulation a  
5 scoring system for evaluation and competitive ranking of applications submitted in this  
6 program, including, but not limited to, the following criteria:

7 (A) Tenant income and demographic targeting objectives of the authority;

8 (B) Targeting objectives of the authority which will ensure an equitable distribution  
9 of loans between rural and urban areas;

10 (C) Sponsor's agreement to reserve the units for persons or families who have incomes  
11 below 50 percent of the state or local median income, whichever is higher, for a time  
12 period to exceed the minimum required by federal law or the provisions of this Code  
13 section;

14 (D) Sponsor's agreement to reserve more than 20 percent of the units in the project for  
15 persons or families who have incomes that do not exceed 50 percent of the state or local  
16 median income, whichever is higher, or 40 percent of the units in the project for persons  
17 or families who have incomes that do not exceed 60 percent of the state or local median  
18 income, whichever is higher, without requiring a greater amount of the loans as  
19 provided in this Code section;

20 (E) Provision for tenant counseling;

21 (F) Sponsor's agreement to accept rental assistance certificates or vouchers as payment  
22 for rent; however, when certificates or vouchers are accepted as payment for rent on  
23 units set aside pursuant to subsection (d) of this Code section, the benefit must be  
24 divided between the authority and the sponsor, as provided by rule or regulation of the  
25 authority;

26 (G) Projects requiring the least amount of a state apartment incentive loan compared  
27 to overall project cost;

28 (H) Local government contributions and local government comprehensive planning  
29 and activities that promote affordable housing;

30 (I) Project feasibility;

31 (J) Economic viability of the project;

32 (K) Commitment of first mortgage financing;

33 (L) Sponsor's prior experience;

34 (M) Sponsor's ability to proceed with construction; and

35 (N) Projects that directly implement or assist welfare-to-work transition;

36 (4) The authority may reject any and all applications;

1 (5) The authority may approve and reject applications for the purpose of achieving  
2 geographic targeting;

3 (6) The review committee established by rule or regulation of the authority pursuant to  
4 this subsection shall make recommendations to the authority regarding program  
5 participation under the State Apartment Incentive Loan Program. The authority shall  
6 make the final ranking and the decisions regarding which applicants shall become  
7 program participants based on the scores received in the competitive ranking, further  
8 review of applications, and the recommendations of the review committee. The authority  
9 shall approve or reject applications for loans and shall determine the tentative loan  
10 amount available to each applicant selected for participation in the program. The actual  
11 loan amount shall be determined by the authority in consideration of the funds available  
12 and the applications under consideration;

13 (7) The loan term shall be for a period of not more than 15 years; however, if both a  
14 program loan and federal low-income housing tax credits are to be used to assist a  
15 project, the authority may set the loan term for a period commensurate with the  
16 investment requirements associated with the tax credit syndication. The term of the loan  
17 may also exceed 15 years if necessary to conform to requirements of the Federal National  
18 Mortgage Association. The authority may renegotiate and extend the loan in order to  
19 extend the availability of housing for the targeted population. The term of a loan may not  
20 extend beyond the period for which the sponsor agrees to provide the housing set-aside  
21 required by subsection (d) of this Code section;

22 (8) The loan shall be subject to sale, transfer, or refinancing. However, all requirements  
23 and conditions of the loan shall remain following sale, transfer, or refinancing;

24 (9) The authority shall not discriminate based on race, sex, color, religion, or national  
25 origin in considering and approving loans under this Code section;

26 (10) The authority may require units dedicated for the elderly;

27 (11) Rent controls shall not be allowed on any project except as required in conjunction  
28 with the issuance of tax-exempt bonds or federal low-income housing tax credits;

29 (12) The proceeds of all loans shall be used for new construction or substantial  
30 rehabilitation which creates affordable, safe, and sanitary housing units;

31 (13) Sponsors shall annually certify the adjusted gross income of all persons or families  
32 qualified under subsection (d) of this Code section at the time of initial occupancy who  
33 are residing in a project funded by this program. All persons or families qualified under  
34 subsection (d) of this Code section may continue to qualify under subsection (d) of this  
35 Code section in a project funded by this program if the adjusted gross income of those  
36 persons or families at the time of annual recertification meets the requirements  
37 established in Section 142(d)(3)(B) of the Internal Revenue Code of 1986, as amended.

1 If the annual recertification of persons or families qualifying under subsection (d) of this  
2 Code section results in noncompliance with income occupancy requirements, the next  
3 available unit must be rented to a person or family qualifying under subsection (d) of this  
4 Code section in order to ensure continuing compliance of the project;

5 (14) Upon submission and approval of a marketing plan which demonstrates a good faith  
6 effort of a sponsor to rent a unit or units to persons or families reserved under  
7 subsection (e) of this Code section and qualified under subsection (d) of this Code  
8 section, the sponsor may rent such unit or units to any person or family qualified under  
9 subsection (d) of this Code section notwithstanding the reservation; and

10 (15) Sponsors may participate in federal mortgage insurance programs and must abide  
11 by the requirements of those programs. If a conflict occurs between the requirements of  
12 federal mortgage insurance programs and the requirements of this Code section, the  
13 requirements of federal mortgage insurance programs shall take precedence.

14 (i) All loan repayments, proceeds from the sale of any property, and any other proceeds  
15 that would otherwise accrue pursuant to the activities conducted under the provisions of  
16 the program shall be deposited in the trust fund.

17 (j) If a default on a loan occurs, the authority may foreclose on any mortgage or security  
18 interest or commence any legal action to protect the interest of the authority or the trust  
19 fund and recover the amount of the unpaid principal, accrued interest, and fees on behalf  
20 of the fund. The authority may acquire real and personal property or any interest therein  
21 when that acquisition is necessary or appropriate to protect any loan; sell, transfer, and  
22 convey any such property to a buyer; and, if that sale, transfer, or conveyance cannot be  
23 effected within a reasonable time, lease such property for occupancy by eligible persons.  
24 All sums recovered from the sale, transfer, conveyance, or lease of such property shall be  
25 deposited into the trust fund.

26 50-26-46.

27 (a) There is created the Georgia Home Ownership Assistance Program for the purpose of  
28 assisting low-income persons in purchasing a home by reducing the cost of the home with  
29 below-market construction financing, by reducing the amount of down payment and  
30 closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by  
31 reducing the monthly payment to an affordable amount for the purchaser. Loans shall be  
32 made available at an interest rate that does not exceed 3 percent. The balance of any loan  
33 is due at closing if the property is sold or transferred.

34 (b) As used in this Code section, the term:

35 (1) 'Low-income persons' means one or more natural persons or a family, not including  
36 students, whose total annual household income does not exceed 80 percent of the median

1 annual adjusted gross income for households within the state, or 80 percent of the median  
2 annual adjusted gross income for households within the metropolitan statistical area in  
3 which the person or family resides or, if not within a metropolitan statistical area, within  
4 the county in which the person or family resides, whichever is greater.

5 (2) 'Program' means the Georgia Home Ownership Assistance Program created by this  
6 Code section.

7 (c) The authority may make:

8 (1) Subordinated loans to eligible borrowers for down payments or closing costs related  
9 to the purchase of the borrower's primary residence;

10 (2) Permanent loans to eligible borrowers related to the purchase of the borrower's  
11 primary residence; or

12 (3) Subordinated loans to nonprofit sponsors or developers of housing for construction  
13 financing of housing to be offered for sale to eligible borrowers as a primary residence  
14 at an affordable price.

15 (c) For loans made under paragraph (1) or (2) of subsection (c) of this Code section, the  
16 authority may underwrite and make mortgage loans through the program to persons or  
17 families who have incomes that do not exceed 80 percent of the state or local median  
18 income, whichever is greater, adjusted for family size. Loans shall be made available for  
19 the term of the first mortgage. Loans are limited to the lesser of 25 percent of the purchase  
20 price of the home or the amount necessary to enable the purchaser to meet credit  
21 underwriting criteria.

22 (d) For loans made under paragraph (3) of subsection (c) of this Code section, availability  
23 shall be limited to nonprofit sponsors or developers who are selected for program  
24 participation pursuant to this Code section. Preference shall be given to community based  
25 organizations as defined in paragraph (1) of subsection (c) of Code Section 50-26-43.  
26 Priority must be given to projects that have received state assistance in funding project  
27 predevelopment costs. The benefits of making such loans shall be contractually provided  
28 to the persons or families purchasing homes financed under this Code section. At least 30  
29 percent of the units in a project financed pursuant to this Code section must be sold to  
30 persons or families who have incomes that do not exceed 80 percent of the state or local  
31 median income, whichever amount is greater, adjusted for family size; and at least another  
32 30 percent of the units in a project financed pursuant to this Code section must be sold to  
33 persons or families who have incomes that do not exceed 50 percent of the state or local  
34 median income, whichever amount is greater, adjusted for family size. The maximum loan  
35 amount may not exceed 33 percent of the total project cost. A person who purchases a  
36 home in a project financed under this subsection is eligible for a loan authorized by  
37 paragraph (1) or (2) of subsection (c) of this Code section in an aggregate amount not

1 exceeding the construction loan made pursuant to this subsection. The home purchaser  
2 must meet all the requirements for loan recipients established pursuant to the applicable  
3 loan program. The authority shall provide, by rule or regulation, for the establishment of  
4 a review committee composed of staff of the authority and shall establish, by rule or  
5 regulation, a scoring system for evaluating and ranking applications submitted for  
6 construction loans under this subsection, including, but not limited to, the following  
7 criteria:

- 8 (1) The affordability of the housing proposed to be built;
- 9 (2) The direct benefits of the assistance to the persons who will reside in the proposed  
10 housing;
- 11 (3) The demonstrated capacity of the applicant to carry out the proposal, including the  
12 experience of the development team;
- 13 (4) The economic feasibility of the proposal;
- 14 (5) The extent to which the applicant demonstrates potential cost savings by combining  
15 the benefits of different governmental programs and private initiatives, including the local  
16 government contributions and local government comprehensive planning and activities  
17 that promote affordable housing;
- 18 (6) The use of the least amount of program loan funds compared to overall project cost;
- 19 (7) The provision of home ownership counseling;
- 20 (8) The applicant's agreement to exceed the requirements of this subsection with regard  
21 to the number of units set aside for low-income persons or families;
- 22 (9) The commitment of first mortgage financing for the balance of the construction loan  
23 and for the permanent loans to the purchasers of the housing;
- 24 (10) The applicant's ability to proceed with construction;
- 25 (11) The targeting objectives of the authority which will ensure an equitable distribution  
26 of loans between rural and urban areas; and
- 27 (12) The extent to which the proposal will further the purposes of this program.

28 The authority may reject any and all applications. The review committee established by  
29 rule or regulation pursuant to this subsection shall make recommendations to the authority  
30 regarding program participation under this subsection. The authority shall make the final  
31 ranking for participation based on the scores received in the ranking, further review of the  
32 applications, and the recommendations of the review committee. The authority shall  
33 approve or reject applicants for loans and shall determine the tentative loan amount  
34 available to each program participant. The final loan amount shall be determined pursuant  
35 to rule or regulation.

36 (e) The authority shall publish a notice of fund availability in a publication of general  
37 circulation throughout the state at least 60 days prior to the anticipated availability of funds.

(f) During the first nine months of fund availability:

(1) Sixty percent of the program funds shall be reserved for use by borrowers pursuant to paragraph (1) of subsection (c) of this Code section;

(2) Twenty percent of the program funds shall be reserved for use by borrowers pursuant to paragraph (2) of subsection (c) of this Code section; and

(3) Twenty percent of the program funds shall be reserved for use by borrowers pursuant to paragraph (3) of subsection (c) of this Code section.

If the application of these percentages would cause the reservation of program funds under paragraph (1) of this subsection to be less than \$1 million, the reservation for paragraph (1) of this subsection shall be increased to \$1 million or all available funds, whichever amount of this subsection is less, with the increase to be accomplished by reducing the reservation for paragraph (2) of this subsection and, if necessary, paragraph (3) of this subsection.

(g) All loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the activities of the programs described in this Code section shall be deposited in the trust fund.

50-26-47.

(a) There is created the Georgia Affordable Housing Guarantee Program for the purposes of:

(1) Stimulating creative private sector lending activities to increase the supply and lower the cost of financing or refinancing eligible housing;

(2) Creating security mechanisms to allow lenders to sell affordable housing loans in the secondary market; and

(3) Encouraging affordable housing lending activities that would not have taken place or that serve persons who would not have been served but for the creation of this program.

(b) As used in this Code section, the term:

(1) 'Affordable housing guarantee' means an obligation of the guarantee program to guarantee the payment of an obligation made to finance or refinance the purchase, construction, or rehabilitation of eligible housing.

(2) 'Annual debt service reserve' means the reserve maintained in the guarantee program in an amount equal to the maximum reserve amount for each series of revenue bonds issued to establish the guarantee fund.

(3) 'Eligible housing' means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for home ownership or rental for eligible persons, including specifically housing for the homeless, as determined by the authority pursuant to rule or regulation.

1 (4) 'Guarantee program' means the Georgia Affordable Housing Guarantee Program  
2 which shall be funded through the trust fund and with proceeds of revenue bonds issued  
3 by the authority.

4 (5) 'Maximum reserve amount' means, for each series of outstanding revenue bonds  
5 issued to fund the guarantee program, the largest aggregate amount of annual principal  
6 installments and interest payments becoming due in any state fiscal year in which the  
7 revenue bonds are outstanding.

8 (c) The authority, by rule or regulation, may establish rates and fees for the issuance of an  
9 affordable housing guarantee, including contractual provisions to foster reimbursement, in  
10 the event of default, to the guarantee program of payments made pursuant to an affordable  
11 housing guarantee issued for eligible housing.

12 (d) The authority may issue, in accordance with Article 3 of Chapter 82 of Title 36, the  
13 'Revenue Bond Law,' revenue bonds of the authority to establish and fund the guarantee  
14 program. Such revenue bonds shall be primarily payable from and secured by annual debt  
15 service reserves; from interest earned on funds on deposit in the guarantee program; from  
16 fees, charges, and reimbursements established by the authority for the issuance of  
17 affordable housing guarantees; and from any other revenue sources received by the  
18 authority for such guarantee program for the issuance of affordable housing guarantees.  
19 To the extent such primary revenue sources are considered insufficient by the authority,  
20 pursuant to the certification provided in subsection (e) of this Code section, to fund fully  
21 the annual debt service reserve, the certified deficiency in such reserve shall be additionally  
22 payable from the trust fund.

23 (e) If the primary revenue sources to be used for repayment of revenue bonds used to  
24 establish and fund the guarantee program are insufficient for such repayment, the annual  
25 principal and interest due on each series of revenue bonds shall be payable from funds in  
26 the annual debt service reserve. The authority shall, before June 1 of each year, perform  
27 a financial audit to determine whether at the end of the fiscal year there will be on deposit  
28 in the guarantee program an annual debt service reserve from interest earned pursuant to  
29 the investment of guarantee funds and from fees, charges, and reimbursements received  
30 from issued affordable housing guarantees and other revenue sources available to the  
31 authority. Based upon the findings in such guarantee program financial audit, the authority  
32 shall certify the amount of any projected deficiency in the annual debt service reserve for  
33 any series of outstanding bonds as of the end of the fiscal year and the amount necessary  
34 to maintain such annual debt service reserve. Upon such certification, the authority shall  
35 transfer to the annual debt service reserve, from the trust fund, the amount certified as  
36 necessary to maintain the annual debt service reserve.

(f) Funds on deposit in the guarantee program shall be used as the primary resource to support the performance by the authority of its obligation under an affordable housing guarantee issued by the authority as determined by rule or regulation of the authority. Such funds shall not be subject to lapse at the end of the fiscal year.

(g) Before establishing the fees, charges, and other obligations and conditions for the issuance of an affordable housing guarantee and defining housing eligible to obtain a guarantee, the authority shall perform an affordable housing guarantee feasibility study. Such study must determine the eligible housing for which a guarantee is required for the investment of private capital, the anticipated risk of default for classifications of eligible housing, and the level of fees, charges, and reimbursement conditions necessary to establish a financially sound affordable housing guarantee program that exposes funds deposited into the guarantee program to a reasonable or acceptable level of risk. Revenue bonds may not be issued to create and establish a guarantee program until the completion of an initial financial feasibility study.

(h) This Code section does not preclude the use of the remaining funds in the trust fund.

(i) The maximum total amount of revenue bonds that may be issued by the authority pursuant to this Code section is \$400 million.

50-26-48.

(a) There is created the State Housing Initiatives Partnership Program for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing related employment. The General Assembly finds that affordable housing is most effectively provided by combining available public and private resources to conserve and improve existing housing and provide new housing for very low-income households, low-income households, and moderate-income households. The General Assembly intends to encourage partnerships in order to secure the benefits of cooperation by the public and private sectors and to reduce the cost of housing for the target population by effectively combining all available resources and cost-saving measures. The General Assembly further intends that local governments achieve this combination of resources by encouraging active partnerships between government, lenders, builders and developers, real estate professionals, advocates for low-income persons, and community groups to produce affordable housing and provide related services. Extending the partnership concept to encompass cooperative efforts among small counties and among counties and municipalities is specifically encouraged. Local governments are also intended to establish an affordable housing advisory committee



1 to recommend monetary and nonmonetary incentives for affordable housing. The General  
2 Assembly further intends that the program provide the maximum flexibility to local  
3 governments to determine the use of funds for housing programs while ensuring  
4 accountability for the efficient use of public resources and guaranteeing that benefits are  
5 provided to those in need.

6 (b) As used in this Code section, the term:

7 (1) 'Adjusted for family size' means adjusted in a manner that results in an income  
8 eligibility level that is lower for households having fewer than four people, or higher for  
9 households having more than four people, than the base income eligibility determined as  
10 provided in paragraphs (19), (20), and (29) of this subsection, based upon a formula  
11 established by the United States Department of Housing and Urban Development.

12 (2) 'Affordable' means that monthly rents or monthly mortgage payments including taxes  
13 and insurance do not exceed 30 percent of that amount which represents the percentage  
14 of the median annual gross income for the households as indicated in paragraphs (19),  
15 (20), and (29) of this subsection. However, it is not the intent to limit an individual  
16 household's ability to devote more than 30 percent of its income for housing, and housing  
17 for which a household devotes more than 30 percent of its income shall be deemed  
18 affordable if the first institutional mortgage lender is satisfied that the household can  
19 afford mortgage payments in excess of the 30 percent benchmark.

20 (3) 'Affordable housing advisory committee' means the committee appointed by the  
21 governing body of a county or eligible municipality for the purpose of recommending  
22 specific initiatives and incentives to encourage or facilitate affordable housing as  
23 provided in this Code section.

24 (4) 'Annual gross income' means annual income as defined under the Section 8 housing  
25 assistance payments programs in 24 C.F.R. Part 5; annual income as reported under the  
26 census long form for the most recent available decennial census; or adjusted gross income  
27 as defined for purposes of reporting under the federal Internal Revenue Service Form  
28 1040 for individual federal annual income tax purposes. Counties and eligible  
29 municipalities shall calculate income by annualizing verified sources of income for the  
30 household as the amount of income to be received in a household during the 12 months  
31 following the effective date of the determination.

32 (5) 'Award' means a loan, grant, or subsidy funded wholly or partially by the local  
33 housing assistance trust fund.

34 (6) 'Community based organization' means a nonprofit organization that has among its  
35 purposes the provision of affordable housing to persons who have special needs or have  
36 very low income, low income, or moderate income within a designated area, which may  
37 include a municipality, a county, or more than one municipality or county, and maintains,

1 through a minimum of one-third representation on the organization's governing board,  
2 accountability to housing program beneficiaries and residents of the designated area. A  
3 community housing development organization established pursuant to 24 C.F.R. Part 92.2  
4 is an example of a community based organization.

5 (7) 'Eligible housing' means any real and personal property located within the county or  
6 the eligible municipality which is designed and intended for the primary purpose of  
7 providing decent, safe, and sanitary residential units that are designed to meet the  
8 standards for home ownership or rental for eligible persons as designated by each county  
9 or eligible municipality participating in the State Housing Initiatives Partnership Program.

10 (8) 'Eligible municipality' means a municipality that is eligible for federal community  
11 development block grant entitlement moneys as an entitlement community identified in  
12 24 C.F.R. Section 570, subpart D, Entitlement Grants. An eligible municipality that  
13 defers its participation in community development block grants does not affect its  
14 eligibility for participation in the State Housing Initiatives Partnership Program.

15 (9) 'Eligible person' or 'eligible household' means one or more natural persons or a family  
16 determined by the county or eligible municipality to be of very low income, low income,  
17 or moderate income according to the income limits adjusted to family size published  
18 annually by the United States Department of Housing and Urban Development based  
19 upon the annual gross income of the household.

20 (10) 'Eligible sponsor' means a person or a private or public for profit or not for profit  
21 entity that applies for an award under the local housing assistance plan for the purpose  
22 of providing eligible housing for eligible persons.

23 (11) 'Grant' means an award from the local housing assistance trust fund to an eligible  
24 sponsor or eligible person to partially assist in the construction, rehabilitation, or  
25 financing of eligible housing or to provide the cost of tenant or ownership qualifications  
26 without requirement for repayment so long as the condition of award is maintained.

27 (12) 'Loan' means an award from the local housing assistance trust fund to an eligible  
28 sponsor or eligible person to partially finance the acquisition, construction, or  
29 rehabilitation of eligible housing with requirement for repayment or provision for  
30 forgiveness of repayment if the condition of the award is maintained.

31 (13) 'Local housing assistance plan' means a concise description of the local housing  
32 assistance strategies and local housing incentive strategies adopted by local government  
33 resolution with an explanation of the way in which the program meets the requirements  
34 of this Code section and the rules and regulations of the authority.

35 (14) 'Local housing assistance strategies' means the housing construction, rehabilitation,  
36 repair, or finance program implemented by a participating county or eligible municipality

1 with the local housing distribution or other funds deposited into the local housing  
2 assistance trust fund.

3 (15) 'Local housing distributions' means funds distributed by the authority from the trust  
4 fund to counties and eligible municipalities participating in the State Housing Initiatives  
5 Partnership Program.

6 (16) 'Local housing incentive strategies' means local regulatory reform or incentive  
7 programs to encourage or facilitate affordable housing production, which include, at a  
8 minimum, assurance that permits for the construction of affordable housing projects are  
9 expedited to a greater degree than other projects; an ongoing process for review of local  
10 policies, ordinances, regulations, and plan provisions that increase the cost of housing  
11 prior to their adoption; and a schedule for implementing the incentive strategies. Local  
12 housing incentive strategies may also include other regulatory reforms adopted by the  
13 local governing body.

14 (17) 'Local housing partnership' means the implementation of the local housing  
15 assistance plan in a manner that involves the applicable county or eligible municipality,  
16 lending institutions, housing builders and developers, real estate professionals, advocates  
17 for low-income persons, community based housing and service organizations, and  
18 providers of professional services relating to affordable housing. The term includes  
19 initiatives to provide support services for housing program beneficiaries such as training  
20 to prepare persons for the responsibility of home ownership, the counseling of tenants,  
21 and the establishing of support services such as day care, health care, and transportation.

22 (18) 'Local housing trust fund' means the account established by a recipient county or  
23 municipality pursuant to subsection (p) of this Code section.

24 (19) 'Low-income person' or 'low-income household' means one or more natural persons  
25 or a family that has a total annual gross household income that does not exceed 80  
26 percent of the median annual income adjusted for family size for households within the  
27 metropolitan statistical area, the county, or the nonmetropolitan median for the state,  
28 whichever amount is greatest. With respect to rental units, the low-income household's  
29 annual income at the time of initial occupancy may not exceed 80 percent of the area's  
30 median income adjusted for family size. While occupying the rental unit, a low-income  
31 household's annual income may increase to an amount not to exceed 140 percent of 80  
32 percent of the area's median income adjusted for family size.

33 (20) 'Moderate-income person' or 'moderate-income household' means one or more  
34 natural persons or a family that has a total annual gross household income that does not  
35 exceed 120 percent of the median annual income adjusted for family size for households  
36 within the metropolitan statistical area, the county, or the nonmetropolitan median for the  
37 state, whichever is greatest. With respect to rental units, the moderate-income

1 household's annual income at the time of initial occupancy may not exceed 120 percent  
2 of the area's median income adjusted for family size. While occupying the rental unit,  
3 a moderate-income household's annual income may increase to an amount not to exceed  
4 140 percent of 120 percent of the area's median income adjusted for family size.

5 (21) 'Personal property' means major appliances, including a freestanding refrigerator or  
6 stove, to be identified on the encumbering documents.

7 (22) 'Plan amendment' means the addition or deletion of a local housing assistance  
8 strategy or local housing incentive strategy. Plan amendments must at all times maintain  
9 consistency with program requirements and must be submitted to the authority for review  
10 pursuant to this Code section. Technical or clarifying revisions may not be considered  
11 plan amendments but must be transmitted to the authority for purposes of notification.

12 (23) 'Population' means the latest official state estimate of population by the United  
13 States Bureau of the Census prior to the beginning of the state fiscal year.

14 (24) 'Program' means the State Housing Initiatives Partnership Program created by this  
15 Code section.

16 (25) 'Program income' means the proceeds derived from interest earned on or investment  
17 of the local housing distribution and other funds deposited into the local housing  
18 assistance trust fund, proceeds from loan repayments, recycled funds, and all other  
19 income derived from use of funds deposited in the local housing assistance trust fund.  
20 The term does not include recaptured funds as defined in paragraph (26) of this  
21 subsection.

22 (26) 'Recaptured funds' means funds that are recouped by a county or eligible  
23 municipality in accordance with the recapture provisions of its local housing assistance  
24 plan pursuant to this Code section from eligible persons or eligible sponsors who default  
25 on the terms of a grant award or loan award.

26 (27) 'Rent subsidies' means ongoing monthly rental assistance. The term does not  
27 include initial assistance to tenants, such as grants or loans for security and utility  
28 deposits.

29 (28) 'Sales price' or 'value' means, in the case of acquisition of an existing or newly  
30 constructed unit, the amount on the executed sales contract. For eligible persons who are  
31 building a unit on land that they own, the sales price is determined by an appraisal  
32 performed by a certified appraiser. The appraisal must include the value of the land and  
33 the improvements using the after-construction value of the property and must be dated  
34 within 12 months of the date construction is to commence. The sales price of any unit  
35 must include the value of the land in order to qualify as eligible housing as defined in  
36 paragraph (7) of this subsection. In the case of rehabilitation or emergency repair of an  
37 existing unit that does not create additional living space, sales price or value means the

1 value of the real property, as determined by an appraisal performed by a certified  
2 appraiser and dated within 12 months of the date construction is to commence or the  
3 assessed value of the real property as determined by the county property appraiser. In the  
4 case of rehabilitation of an existing unit that includes the addition of new living space,  
5 sales price or value means the value of the real property, as determined by an appraisal  
6 performed by a certified appraiser and dated within 12 months of the date construction  
7 is to commence or the assessed value of the real property as determined by the county  
8 property appraiser, plus the cost of the improvements in either case.

9 (29) 'Very low-income person' or 'very low-income household' means one or more  
10 natural persons or a family that has a total annual gross household income that does not  
11 exceed 50 percent of the median annual income adjusted for family size for households  
12 within the metropolitan statistical area, the county, or the nonmetropolitan median for the  
13 state, whichever is greatest. With respect to rental units, the very low-income  
14 household's annual income at the time of initial occupancy may not exceed 50 percent  
15 of the area's median income adjusted for family size. While occupying the rental unit,  
16 a very low-income household's annual income may increase to an amount not to exceed  
17 140 percent of 50 percent of the area's median income adjusted for family size.

18 (c)(1) To be eligible to receive funds under the program, a county or eligible  
19 municipality must:

20 (A) Submit to the authority its local housing assistance plan describing the local  
21 housing assistance strategies established pursuant to this Code section;

22 (B) Within 12 months after adopting the local housing assistance plan, amend the plan  
23 to incorporate its local housing incentive strategies; and

24 (C) Within 24 months after adopting the amended local housing assistance plan to  
25 incorporate the local housing incentive strategies, amend its land development  
26 regulations or establish local policies and procedures, as necessary, to implement the  
27 local housing incentive strategies adopted by the local governing body.

28 (2) A county or an eligible municipality seeking approval to receive its share of the local  
29 housing distribution must adopt an ordinance containing the following provisions:

30 (A) Creation of a local housing assistance trust fund as described in this Code section;

31 (B) Adoption by resolution of a local housing assistance plan to be implemented  
32 through a local housing partnership;

33 (C) Designation of the responsibility for the administration of the local housing  
34 assistance plan. Such ordinance may also provide for the contracting of all or part of  
35 the administrative or other functions of the program to a third person or entity; and

36 (D) Creation of an affordable housing advisory committee.

37 The ordinance must not take effect until at least 30 days after the date of formal adoption.

1 (d)(1) The governing authority of the county or of an eligible municipality must submit  
2 to the authority one copy of its local housing assistance plan. The transmittal of the plan  
3 must include a copy of the ordinance, the adopting resolution, the local housing assistance  
4 plan, and such other information as the authority may require by rule or regulation;  
5 however, information to be included in the plan is intended to demonstrate consistency  
6 with the requirements of this Code section and the rules and regulations of the authority  
7 without posing an undue burden on the local government. Plans shall be reviewed by a  
8 committee composed of staff of the authority as established by rule or regulation of the  
9 authority.

10 (2) Within 30 days after receiving a plan, the review committee shall review the plan and  
11 either approve it or identify inconsistencies with the requirements of the program. The  
12 authority shall assist a local government in revising its plan if it initially proves to be  
13 inconsistent with program requirements. A plan that is revised by the local government  
14 to achieve consistency with program requirements shall be reviewed within 30 days after  
15 submission. The deadlines for submitting original and revised plans shall be established  
16 by rule or regulation of the authority.

17 (3) The General Assembly intends that approval of plans be expedited to ensure that the  
18 production of needed housing and the related creation of jobs occur as quickly as  
19 possible. After being approved for funding, a local government may amend by resolution  
20 its local housing assistance plan if the plan as amended complies with program  
21 requirements; however, a local government must submit its amended plan for review  
22 according to the process established in this subsection in order to ensure continued  
23 consistency with the requirements of the program.

24 (e) Funds shall be distributed by the authority to each approved county and eligible  
25 municipality within the county as provided in this Code section. Distributions shall be  
26 allocated to the participating county and to each eligible municipality within the county  
27 according to an intergovernmental agreement between the county governing authority and  
28 the governing body of the eligible municipality or, if there is no intergovernmental  
29 agreement, according to population. The portion for each eligible municipality shall be  
30 computed by multiplying the total moneys earmarked for a county by a fraction, the  
31 numerator of which is the population of the eligible municipality and the denominator of  
32 which is the total population of the county. The remaining revenues shall be distributed  
33 to the governing authority of the county.

34 (f)(1) Local governments are encouraged to make the most efficient use of their  
35 resources by cooperating to provide affordable housing assistance. Local governments  
36 may enter into an intergovernmental agreement for the purpose of establishing a joint  
37 local housing assistance plan subject to the requirements of this Code section. The local

1 housing distributions for such counties and eligible municipalities shall be directly  
2 disbursed on a monthly basis to each county or eligible municipality to be administered  
3 in conformity with the intergovernmental agreement providing for a joint local housing  
4 assistance plan.

5 (2) If a county or eligible municipality enters into an intergovernmental agreement with  
6 a municipality that becomes eligible as a result of entering into that intergovernmental  
7 agreement, the county or eligible municipality that has agreed to transfer the control of  
8 funds to a municipality that was not originally eligible must ensure through its local  
9 housing assistance plan and through the intergovernmental agreement that all program  
10 funds are used in a manner consistent with this Code section. This must be accomplished  
11 by:

12 (A) Providing that the use of the portion of funds transferred to the municipality meets  
13 all requirements of this Code section; or

14 (B) Providing that the use of the portion of funds transferred to the municipality, when  
15 taken in combination with the use of the local housing distribution from which funds  
16 were transferred, meets all requirements of this Code section.

17 (g) The funds that otherwise would be distributed to a local government that does not meet  
18 the program's requirements for receipts of such distributions shall be administered by the  
19 authority.

20 (h) A county or an eligible municipality must expend its portion of the local housing  
21 distribution only to implement a local housing assistance plan. A county or an eligible  
22 municipality may not expend its portion of the local housing distribution to provide rent  
23 subsidies; however, this does not prohibit the use of funds for security and utility deposit  
24 assistance.

25 (i) Funds distributed under the program may not be pledged to pay the debt service on any  
26 bonds.

27 (j) The authority shall adopt rules and regulations as necessary to implement this Code  
28 section.

29 (k) Each county or eligible municipality participating in the program shall develop and  
30 implement a local housing assistance plan created to make affordable residential units  
31 available to persons of very low income, low income, or moderate income and to persons  
32 who have special housing needs, including, but not limited to, homeless people and the  
33 elderly. The plans are intended to increase the availability of affordable residential units  
34 by combining local resources and cost-saving measures into a local housing partnership and  
35 using private and public funds to reduce the cost of housing.

36 (l) Local housing assistance plans may allocate funds to:

37 (1) Implement local housing assistance strategies for the provision of affordable housing;

(2) Supplement funds available to the authority to provide enhanced funding of state housing programs within the county or the eligible municipality;

(3) Provide the local matching share of federal affordable housing grants or programs;

(4) Fund emergency repairs; and

(5) Further the housing element of the local government comprehensive plan specific to affordable housing.

(m)(1) Each county and each eligible municipality participating in the program shall encourage the involvement of appropriate public sector and private sector entities as partners in order to combine resources to reduce housing costs for the targeted population. This partnership process should involve:

(A) Lending institutions;

(B) Housing builders and developers;

(C) Nonprofit and other community based housing and service organizations;

(D) Providers of professional services relating to affordable housing;

(E) Advocates for low-income persons, including, but not limited to, homeless people and the elderly;

(F) Real estate professionals; and

(G) Other persons or entities who can assist in providing housing or related support services.

(2) The specific participants in partnership activities may vary according to the community's resources and the nature of the local housing assistance plan.

(n) Each local housing assistance plan is governed by the following criteria and administrative procedures:

(1) Each county, eligible municipality, or entity formed through intergovernmental agreement to participate in the program must develop a qualification system and selection criteria for applications for awards by eligible sponsors, adopt criteria for the selection of eligible persons, and adopt a maximum award schedule or system of amounts consistent with the intent and budget of its local housing assistance plan, with this Code section, and with the rules and regulations of the authority;

(2) The county or eligible municipality or its administrative representative shall advertise the notice of funding availability in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, at least 30 days before the beginning of the application period. If no funding is available due to a waiting list, no notice of funding availability is required;

(3) It shall be unlawful to discriminate on the basis of race, creed, religion, color, age, sex, marital status, familial status, national origin, or handicap in the award application process for eligible housing;



(4) As a condition of receipt of an award, the eligible sponsor or eligible person must contractually commit to comply with the affordable housing criteria provided under this Code section applicable to the affordable housing objective of the award. The plan criteria adopted by the county or eligible municipality must prescribe the contractual obligations required to ensure compliance with award conditions; and

(5) The staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility or, to the extent another governmental entity provides the same monitoring and determination, a municipality, county, or local housing financing authority may rely on such monitoring and determination of tenant eligibility. However, any loan or grant in the original amount of \$3,000.00 or less shall not be subject to annual monitoring and determination of tenant eligibility requirements.

(o) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(1) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for home ownership for eligible persons;

(2) At least 75 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing;

(3) The sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the statistical area in which the eligible housing is located. Such average area purchase price may be that calculated for any 12 month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs;

(4) All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance trust fund must be occupied by very low-income persons, low-income persons, and moderate-income persons;

(5) At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very low-income persons or eligible sponsors who will serve very low-income persons and at least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons;

(6) Loans shall be provided for periods not exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons;

(7) Loans or grants for eligible rental housing constructed, rehabilitated, or otherwise assisted from the local housing assistance trust fund must be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan unless reserved for eligible persons for 15 years or the term of the assistance, whichever period is longer. Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons;

(8) Loans or grants for eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan;

(9) The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or her or his designee must be made affordable;

(10) The maximum sales price or value per unit and the maximum award per unit for eligible housing benefiting from awards made pursuant to this Code section must be established in the local housing assistance plan;

(11) The benefits of assistance provided through the State Housing Initiatives Partnership Program must accrue to eligible persons occupying eligible housing. This paragraph shall not be construed to prohibit use of the local housing distribution funds for a mixed income rental development; and

(12) Funds from the local housing distribution not used to meet the criteria established in paragraph (1) or (2) of this subsection or not used for the administration of a local housing assistance plan must be used for housing production and finance activities, including, but not limited to, financing the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan. Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, program income may also be used to fund activities described in this paragraph. If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of Section 42 of the federal Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of Section 42 of the federal Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (1) and (4) of this subsection.

(p) Each county or eligible municipality receiving local housing distribution funds shall establish and maintain a local housing assistance trust fund. All moneys of a county or an eligible municipality received from its share of the local housing distribution, program income, recaptured funds, and other funds received or budgeted to implement the local housing assistance plan shall be deposited into the trust fund. Expenditures other than for the administration and implementation of the local housing assistance plan may not be made from the fund.

(q) The funds deposited in the local housing assistance trust fund shall be used to administer and implement the local housing assistance plan. The cost of administering the plan may not exceed 5 percent of the local housing distribution funds and program income deposited into the trust fund. A county or an eligible municipality may not exceed the 5 percent limitation on administrative costs, unless its governing body finds, by resolution, that 5 percent of the local housing distribution plus 5 percent of program income is insufficient to pay adequately the necessary costs of administering the local housing assistance plan. The cost of administering the program may not exceed 10 percent of the local housing distribution plus 5 percent of program income deposited into the trust fund, except that small counties, as defined by the authority by rule or regulation, and eligible municipalities receiving a local housing distribution of up to \$350,000.00 may use up to 10 percent of program income for administrative costs.

(r) The authority shall provide technical assistance to local governments regarding the creation of partnerships, the design of local housing assistance strategies, the implementation of local housing incentive strategies, and the provision of support services.

(s) The authority shall monitor the activities of local governments to determine compliance with program requirements and shall collect data on the operation and achievements of housing partnerships.

(t) Each county or eligible municipality shall submit to the authority by September 15 of each year a report of its affordable housing programs and accomplishments through June 30 immediately preceding submittal of the report. The report shall be certified as accurate and complete by the local government's chief elected official or his or her designee. Transmittal of the annual report by a county's or eligible municipality's chief elected official, or his or her designee, certifies that the local housing incentive strategies, or, if applicable, the local housing incentive plan, have been implemented or are in the process of being implemented pursuant to the adopted schedule for implementation. The report must include, but is not limited to:

- (1) The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as homeless persons and the elderly.

Counties shall report this information separately for households served in the unincorporated area and each municipality within the county;

(2) The number of units and the average cost of producing units under each local housing assistance strategy;

(3) The average area purchase price of single-family units and the amount of rent charged for a rental unit based on unit size;

(4) By income category, the number of mortgages made, the average mortgage amount, and the rate of default;

(5) A description of the status of implementation of each local housing incentive strategy or, if applicable, the local housing incentive plan as set forth in the local government's adopted schedule for implementation;

(6) A concise description of the support services that are available to the residents of affordable housing provided by local programs;

(7) The sales price or value of housing produced and an accounting of what percentage was financed by the local housing distribution, other public moneys, and private resources; and

(8) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality.

(u) The report shall be made available by the county or eligible municipality for public inspection and comment prior to certifying the report and transmitting it to the authority. The county or eligible municipality shall provide notice of the availability of the proposed report and solicit public comment. The notice must state the public place where a copy of the proposed report can be obtained by interested persons. Members of the public may submit written comments on the report to the county or eligible municipality and the authority. Written public comments shall identify the author by name, address, and interest affected. The county or eligible municipality shall attach a copy of all such written comments and its responses to the annual report submitted to the authority.

(v) The authority shall review the report of each county or eligible municipality and any written comments from the public and include any comments concerning the effectiveness of local programs in the report required by Code Section 50-26-42.

(w)(1) If, as a result of the review of the annual report or public comment and written response from the county or eligible municipality, or at any other time, the authority determines that a county or eligible municipality may have established a pattern of violation of the criteria for a local housing assistance plan established under this Code section or that an eligible sponsor or eligible person has violated the applicable award conditions, the authority shall report such pattern of violation of criteria or violation of award conditions to its compliance monitoring agent and the Governor. The authority's

1 compliance monitoring agent must determine within 60 days whether the county or  
2 eligible municipality has violated program criteria and shall issue a written report thereon.  
3 If a violation has occurred, the distribution of program funds to the county or eligible  
4 municipality shall be suspended until the violation is corrected.

5 (2) If, as a result of its review of the annual report, the authority determines that a county  
6 or eligible municipality has failed to implement a local housing incentive strategy, or, if  
7 applicable, a local housing incentive plan, it shall send a notice of termination of the local  
8 government's share of the local housing distribution by certified mail, return receipt  
9 requested, to the affected county or eligible municipality. The notice must specify a date  
10 of termination of the funding if the affected county or eligible municipality does not  
11 implement the plan or strategy and provide for a local response. A county or eligible  
12 municipality shall respond to the authority within 30 days after receipt of the notice of  
13 termination. The authority shall consider the local response that extenuating  
14 circumstances precluded implementation and grant an extension to the time frame for  
15 implementation. Such an extension shall be made in the form of an extension agreement  
16 that provides a time frame for implementation. The chief elected official of a county or  
17 eligible municipality or his or her designee shall have the authority to enter into the  
18 agreement on behalf of the local government. If the county or the eligible municipality  
19 has not implemented the incentive strategy or entered into an extension agreement by the  
20 termination date specified in the notice, the local housing distribution share terminates,  
21 and any uncommitted local housing distribution funds held by the affected county or  
22 eligible municipality in its local housing assistance trust fund shall be transferred to the  
23 authority to administer pursuant to this Code section. If the authority terminates funds  
24 to a county, but an eligible municipality receiving a local housing distribution pursuant  
25 to an intergovernmental agreement maintains compliance with program requirements, the  
26 authority shall thereafter distribute directly to the participating eligible municipality its  
27 share calculated in the manner provided by this Code section. Any county or eligible  
28 municipality whose local distribution share has been terminated may subsequently elect  
29 to receive directly its local distribution share by adopting the ordinance, resolution, and  
30 local housing assistance plan in the manner and according to the procedures provided in  
31 this Code section.

32 (x) Each county or eligible municipality participating in the program, including a  
33 municipality receiving program funds through the county, must, within 12 months after the  
34 original adoption of the local housing assistance plan, amend the plan to include local  
35 housing incentive strategies. The governing authority of a county or municipality shall  
36 appoint the members of the affordable housing advisory committee by resolution. Pursuant  
37 to the terms of any intergovernmental agreement, a county and municipality may create and

1 jointly appoint an advisory committee to prepare a joint plan. The ordinance which creates  
2 the advisory committee or the resolution appointing the advisory committee members must  
3 provide for nine committee members and their terms. The committee must include:

4 (1) One citizen who is actively engaged in the residential home building industry in  
5 connection with affordable housing;

6 (2) One citizen who is actively engaged in the banking or mortgage banking industry in  
7 connection with affordable housing;

8 (3) One citizen who is a representative of those areas of labor actively engaged in home  
9 building in connection with affordable housing;

10 (4) One citizen who is actively engaged as an advocate for low-income persons in  
11 connection with affordable housing;

12 (5) One citizen who is actively engaged as a for profit provider of affordable housing;

13 (6) One citizen who is actively engaged as a not for profit provider of affordable  
14 housing;

15 (7) One citizen who is actively engaged as a real estate professional in connection with  
16 affordable housing;

17 (8) One citizen who actively serves on the local planning agency; and

18 (9) One citizen who resides within the jurisdiction of the local governing body making  
19 the appointments.

20 If a county or eligible municipality, whether due to its small size, the presence of a conflict  
21 of interest by prospective appointees, or other reasonable factor, is unable to appoint a  
22 citizen actively engaged in these activities in connection with affordable housing, a citizen  
23 engaged in the activity without regard to affordable housing may be appointed.

24 (y) All meetings of the advisory committee are public meetings, and all committee records  
25 are public records. Staff, administrative, and facility support to the advisory committee  
26 shall be provided by the appointing county or eligible municipality. The advisory  
27 committee shall review the established policies and procedures, ordinances, land  
28 development regulations, and adopted local government comprehensive plan of the  
29 appointing local government and shall recommend specific initiatives to encourage or  
30 facilitate affordable housing while protecting the ability of the property to appreciate in  
31 value. Such recommendations may include the modification or repeal of existing policies,  
32 procedures, ordinances, regulations, or plan provisions; the creation of exceptions  
33 applicable to affordable housing; or the adoption of new policies, procedures, regulations,  
34 ordinances, or plan provisions. At a minimum, each advisory committee shall make  
35 recommendations on affordable housing incentives in the following areas:

36 (1) The processing of approvals of development orders or permits for affordable housing  
37 projects is expedited to a greater degree than other projects;

- (2) The modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing;
- (3) The allowance of increased density levels for affordable housing;
- (4) The reservation of infrastructure capacity for housing for very low-income persons and low-income persons;
- (5) The allowance of affordable accessory residential units in residential zoning districts;
- (6) The reduction of parking and setback requirements for affordable housing;
- (7) The allowance of zero-lot-line configurations for affordable housing;
- (8) The modification of street requirements for affordable housing;
- (9) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing; and
- (10) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.

The advisory committee recommendations must also include other affordable housing incentives identified by the advisory committee. The approval by the advisory committee of its local housing incentive strategies recommendations must be made by affirmative vote of a majority of the membership of the advisory committee taken at a public hearing. Notice of the time, date, and place of the public hearing of the advisory committee to adopt final local housing incentive strategies recommendations must be published in a newspaper of general paid circulation in the county. Such notice must contain a short and concise summary of the local housing incentives strategies recommendations to be considered by the advisory committee. The notice must state the public place where a copy of the tentative advisory committee recommendations can be obtained by interested persons.

(z) Within 90 days after the date of receipt of the local housing incentive strategies recommendations from the advisory committee, the governing body of the appointing local government shall adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction. The amendment must include, at a minimum, the local housing incentive strategies. The governing authority of the county or the eligible municipality shall notify the authority by certified mail, return receipt requested, of its adoption of an amendment of its local housing assistance plan to incorporate local housing incentive strategies. The notice must include a copy of the approved amended plan. If the authority fails to receive timely the approved amended local housing assistance plan to incorporate local housing incentive strategies, a notice of termination of its share of the local housing distribution shall be sent by certified mail, return receipt requested, by the authority to the affected county or eligible municipality. The notice of termination must specify a date of termination of the funding

1 if the affected county or eligible municipality has not adopted an amended local housing  
2 assistance plan to incorporate local housing incentive strategies. If the county or the  
3 eligible municipality has not adopted an amended local housing assistance plan to  
4 incorporate local housing incentive strategies by the termination date specified in the notice  
5 of termination, the local distribution share shall terminate; and any uncommitted local  
6 distribution funds held by the affected county or eligible municipality in its local housing  
7 assistance trust fund shall be transferred to the authority to administer the local government  
8 housing program pursuant to this Code section. If a county fails to timely adopt an  
9 amended local housing assistance plan to incorporate local housing incentive strategies but  
10 an eligible municipality receiving a local housing distribution pursuant to an  
11 intergovernmental agreement within the county does timely adopt an amended local  
12 housing assistance plan to incorporate local housing incentive strategies, the authority, after  
13 receipt of a notice of termination, shall thereafter distribute directly to the participating  
14 eligible municipality its share calculated in the manner provided in this Code section. Any  
15 county or eligible municipality whose local distribution share has been terminated may  
16 subsequently elect to receive directly its local distribution share by adopting an amended  
17 local housing assistance plan to incorporate local housing incentive strategies in the manner  
18 and according to the procedure provided in this Code section and by adopting an ordinance  
19 in the manner required in this Code section.

20 (aa) When appropriated funds remain in the program, the authority shall distribute the  
21 remaining funds as follows:

22 (1) The authority shall distribute all remaining funds proportionately among counties and  
23 eligible municipalities for which an emergency or natural disaster has been declared by  
24 executive order and which have an approved local housing assistance plan to implement  
25 a local housing assistance strategy, consistent with this Code section, for repairing and  
26 replacing housing damaged as a result of the emergency or natural disaster; or

27 (2) If paragraph (1) of this subsection does not apply, the authority shall distribute the  
28 remaining funds proportionately among all counties and eligible municipalities that have  
29 fully expended their local housing distributions for the immediately preceding state fiscal  
30 year on eligible activities and have an approved local housing assistance plan. A county  
31 or eligible municipality that receives local housing distributions pursuant to this  
32 paragraph shall expend those funds in accordance with the provisions of this Code  
33 section, the rules and regulations of the authority, and its local housing assistance plan."

## 34 SECTION 8.

35 This Act shall become effective on January 1, 2007, provided that a constitutional  
36 amendment authorizing the creation of the Georgia Housing Trust Fund is approved and



1 ratified by the voters of the state in the 2006 November general election. Otherwise, this Act  
2 shall stand repealed by operation of law on January 1, 2007.

3 **SECTION 9.**

4 All laws and parts of laws in conflict with this Act are repealed.